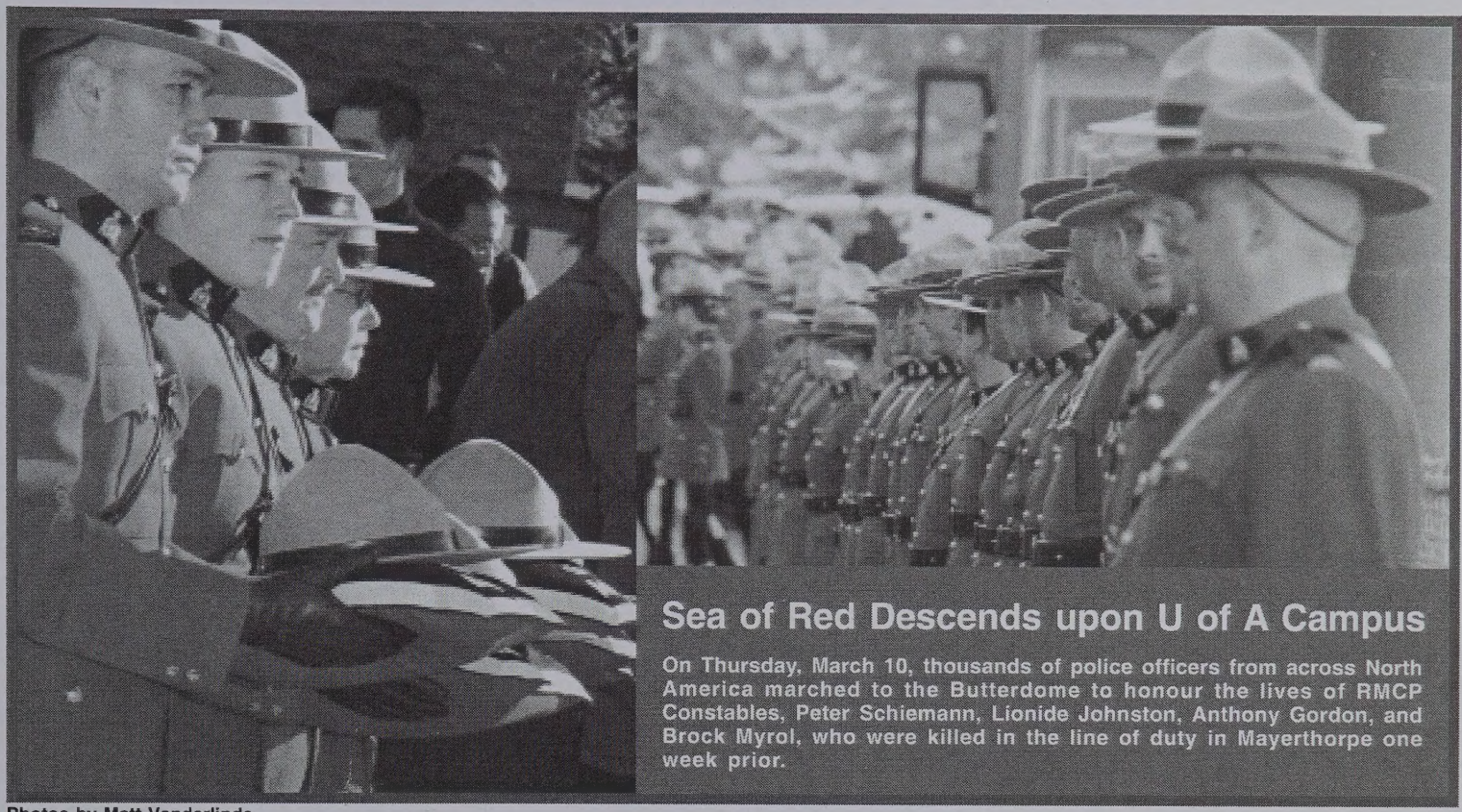
Canons of Construction

Volume 36, Number 9 The Law Students' Newspaper Mar 29, 2005



Sea of Red Descends upon U of A Campus

On Thursday, March 10, thousands of police officers from across North America marched to the Butterdome to honour the lives of RMCP Constables, Peter Schiemann, Lionide Johnston, Anthony Gordon, and Brock Myrol, who were killed in the line of duty in Mayerthorpe one week prior.

Photos by Matt Vanderlinde

And the Greatest Alumnus is...

Walter Krawec (3L)

She finished at the top of her class and was called to the bench before her fortieth birthday. By sixty, she already had a couple years of being Chief Justice of the Supreme Court of Canada under her belt. That distinguished record was more than enough to earn Beverley McLachlin the title of greatest graduate in Faculty of Law history.

It was a close decision, but in the end it came down to reaching heights previously unattained by any Faculty of Law graduate.

As one participant put it, McLachlin is "way ahead of her time; it just doesn't get much better than being the Chief Justice of the Supreme Court of Canada."

In a race where graduate students had the opportunity to submit two selections, McLachlin was named as either a first or second pick by every participant.

McLachlin's closest rival was a name from the past, Marjorie Bowker. Bowker graduated in 1912, a time when there were very few female law students. She went on to a distinguished career as a noted social activist who defended the rights of children, women and prisoners.

Some of the better-known figures on the list were left out of the final count. Surprisingly, football legend and former Alberta premier Peter Lougheed was shut out, as was businessperson and philanthropist Eldon Foote.

The choice of McLachlin as the faculty's greatest graduate was hailed by *Canons of Construction* publisher My-Le Lai, who championed the case for McLachlin. Lai said that "she has accomplished so much in such a short amount of time that she will continue to make a significant mark on the legal landscape and to be an inspiration for those in the legal profession."

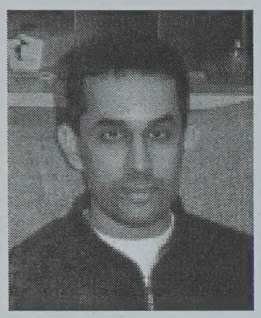
While McLachlin was the clear choice for the honours, there appeared to be some hesitation on the part of some who selected her. One participant who named McLachlin as a second choice noted that her "most profound potential for greatness lies in the future."

With over a decade left before she reaches the Supreme Court's mandatory retirement age of 75, McLachlin has considerable potential to leave an even greater mark on the Supreme Court and consequently, on Canada's legal universe. However, her impressive list of accomplishments to date is more than enough to propel her to the top of the heap.

Photo by My-Le Lai

International PERSPECTIVE

ASIAN GIANTS: China, India and the Asian Century Debate



Randeep Purewall (2L)

Well, the verdict from The Economist is in once again: China will never win the respect it craves until it learns to democratize, and India won't become a true Asian tiger a la China until it embraces capitalism unconditionally. In short, 'tis best to be like the West! As for the China-India comparison itself, the following observations are apt.[1]

First, China (fudged statistics notwithstanding) has outpaced India in just about every socio-economic indicator over the past two decades, except population growth. Of course, China began its economic reforms back in 1978 and has gone much further and deeper in pursuing reform than its South Asian counterpart. India only began reforming in 1991 and has moved far too cautiously, to the chagrin of the West.[2]

Second, statistics paint only half a picture. That India ranks only second in the world to China in GDP growth does not mean India is growing slowly.[3]

Furthermore, it appears the economies of China and India are more complementary than competitive for, *inter alia*, the reasons following.

First, while China attracts record foreign-direct investment with a forte in manufacturing (to the detriment of most other developing countries), India appears to be the have found its niche in *human capital* and services.[4] A comparison of the GDP breakdown of both countries shows that services constitute 52% of India's GDP, with accelerating growth in the knowledge-based industries, while manufacturing comprises more than half of China's GDP, making that country the "workshop of the world."[5]

Fourth, China's "economic miracle" is the result of state-led "macroeconomic" adjustment or top-down reform, whereas India's hope lies in rolling back bureaucracy, and allowing its (democratic) political and (common-law) legal system to accommodate growth.[6]

Finally, any China v. India face-off is more apparent than real. In spite of sporadic political tension since the Sino-Indian War of 1962, the two countries have enjoyed exemplary cultural and economic relations for over two millennia. Furthermore, current relations could not be better as the two Asian Giants, in theory at least, co-ordinate their development strategies, and engage in greater trade and diplomatic exchange.

Indeed, China and India are more likely to complement one another than compete outright. During the early eighteenth-century, the two countries comprised over 52% of the world's GDP between them. The twenty-first century, with China and India as its world's two fastest growing economies, may just be an Asian Century once again.

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1 This study does not deny the high incidence of poverty in India or China nor the huge environmental and social and political problems confronting each country. Rather it seeks to examine the economic development of both countries in light of the idea of the Twenty-First Century as the Asian Century.

2 Historical context for both countries is often overlooked in comparative analysis. China's dream is to emerge from its "Century of Shame" imposed by the West by any means necessary. India, having spent over a century under the rule of a corporation, is perhaps understandably loath to "open-up" to multi-nationals.

3 Indeed, China is set to overtake the United States as the world's largest economy (in terms of purchasing power parity or PPP) in ten to fifteen years whereas India will soon overtake Japan (at current growth rates) to become the world's third largest (in PPP terms).

4 That India churns out a high quantity of quality English speaking graduates from its technical institutions is already well noted. So too is China's performance in everything from automobiles to hardware and the rise of Shanghai as a commercial capital of Asia.

5 "Survey: India and China" in The Economist. March 5th-11th, 2005, 10.

6 The growing middle-class in India only serves to entrench democracy while China, though authoritarian, is finally being forced to "listen up" to those Chinese who want "in" on the boom.

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Come to our next meeting:

Wed, Mar. 30, 2005
Canons Office
(in Locker Room)
Time: noon

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All law students and interested parties in the legal community are encouraged to contribute submissions, provided that contributions are accompanied by name, student number and telephone number. No articles are published anonymously. *Canons* reserves the right to edit submissions for content, length, and legality. *Canons* will not publish materials deemed by the board to be racist, sexist, homophobic or libelous. Ideas and opinions expressed in *Canons* do not necessarily reflect the views of the *Canons* board.

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Volume 36, Number 9 The Law Students' Newspaper Mar 29, 2005

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Picard LECTURE

"There is no wealth in life...": Finding a Pulse for Public Health Law

Allison Eng (1L)

Picard Lecture in Health Law – Dr. Lawrence O. Gostin, "The Future of the Public's Health: Vision, Values and Strategies" March 10, 2005

That Professor Gostin's lecture would tug at the heart of a self-seeking, former business student with his simple message of social justice and the common good is noteworthy. As he stepped back from the complexities of health care systems, biomedical technologies, and their respective economic considerations, he led his audience to the heartbeat of public health, which continues to fuel his passion for health law to this day. Public health is what we, as a society, do collectively to ensure the conditions for people to be healthy (as defined by the Institute of Medicine in its report, *The Future of Public Health* (1988)).

Public health receives little attention – in fact, many shudder at the word "public". Professor Gostin observed that what *does* capture us is "the little girl with the face" and technological imperatives such as genetics and stem cell research. Our culture values individualism over the public good. However, health cannot be individually-packaged; it is integral to every human undertaking and affects everyone. "Nothing is so important to the security and vibrancy of a nation as the well-being of its people," he wrote.

Health is a transcendent value that is a prerequisite for social, political and economic activity; a healthy society is achieved through political dialogue about its importance in society. Promoting active lifestyles, healthy eating habits and sustaining clean water are within the ambit of the government's role in protecting its citizens' interests.

Further, collective action is imperative for global health. "Germs do not respect frontiers and borders," he noted. Public health is a global problem that faces ecological and climactic changes, animal & human interchanges, overuse of antibiotics, and overcrowding in urban areas. Too many nations are not equipped to effectively respond to the spread of diseases such as AIDS/HIV and Avian flu, nor can they respond to the threats of emerging infectious diseases and bioterrorism.

From a legal perspective, what role does law play in supporting public health? Public health law, he described, examines "government authority to prevent injury and disease and to promote the public's health, as well as the constraints on state action to protect individual freedom." The public health perspective believes in forgoing a degree of individual liberty and pursuing a well-regulated community that

...Continued on page 7

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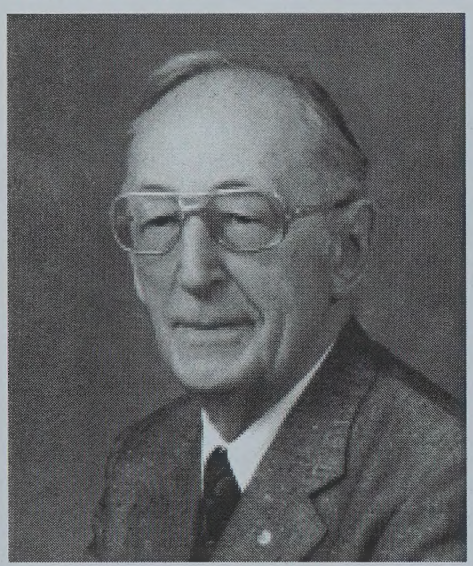
Letter to the EDITOR

What about Wilbur Bowker?

Carol Fowlie,
Alberta Law Reform Institute

If I had a magic wand I would endow each student in this building, and most anyone else, with a little bit of Wilbur Bowker, who served as Dean of the Faculty of Law at the University of Alberta for 20 years. For those of us who knew him there is no need to explain this odd wish; Wilbur Bowker projected his humanity and brilliance to most everyone he met.

His exclusion from the Canons of Construction Greatest Alumnus article in the last issue can only be explained by oversight. Through this article it is hoped to provide the student of today with more information about the man than is evidenced by his portrait hanging in the foyer.



He was passionate about the law, in every area, and taught in most. Civil Liberties and an interest in Legal History stand out upon review. He lived a life that was full of respect, morality and good clean fun. A story recalled by Judge J. S. Cormack had the young student on the roof of Athabasca Hall dropping his Parker Pen to the ground to test the advertising claim that it would land undamaged from a 4,000 foot drop. He received a new pen in the mail after mailing the shattered pen. He was also famous for his 'performance' reciting of the poem "Casey at the Bat".

In 1945 the University (somehow) arranged for Wilbur Bowker's discharge from the Army so he could return to Alberta to "take over" the Law Faculty. Many attribute the success or even the continued existence of the Law Faculty to his hard work and dedication by teaching 14 hours per week as the only full-time legal staff at the time. He became Dean in 1948 and continued until 1968 when he became the first Director of the Institute of Research and Reform (now the Alberta Law Reform Institute). He retired from the Institute in 1975 but continued to research and provide assistance daily from an office on the fourth floor until shortly before he died in 1999.

He enjoyed the unwavering support and love from a remarkable woman, Hon. Marjorie Bowker and their three children Blair, Lorna and Keith. He supported his community through the Rotary and other service clubs and contributed to the development and conversation of many laws including those governing medical research and practice. The home of Alberta Justice was restored in 1981, and renamed the Bowker Building by Benchers of the day.

Liber Amicorum (Book of Friends), a 186 page collection of letters bound together on the occasion of his retirement holds many expressions of appreciation and short stories detailing memories of their time with Dean Bowker. I hardly feel qualified to represent him as I knew him for a just a few years before his death...but it didn't take long to understand that he was an exceptional man. Through all his accomplishments and outstanding personal traits (of which there were many) none were greater, in my mind, than his enthusiastic and genuine interest in people. It was present throughout all his accomplishments and recognized easily by those he met. A truly rare gift.

On the occasion of his retirement from the Alberta Law Reform Institute in 1975, this was written by his former colleague and friend, Trevor D. Anderson:

"We, as friends and former pupils - and there is no distinction, for no one has ever known Wilbur Bowker without being in some sense his pupil - [know] him [as] the most clubbable of men, the most loyal of friends, an enthusiastic appreciator of the variety of human character and affairs. To us all, he has been an abundant source of life, a creator who has made his friends partly what they are. He is an original, of a distinctive type and tone. To all of us, he is a friend and mentor, and all of us probably will ever see the Law and our professional duty in the lights he has exposed...." from the Alberta Law Review, 1976, Vol. 14, p199.

The influence of this man cannot be measured through his achievements alone; he touched many, and in a very fundamental way.

The hope for this article is to pique your curiosity enough so you find time in your professional career to approach at least one Professor or senior member of the Bar who knew him. Ask them to share their favourite Wilbur story,... and you will begin to understand his greatness.

Just the Facts
1910 - Born in his beloved Ponoka
1926 - Came to the University of Alberta to begin his Arts degree, lived at Assiniboia Hall.
1931 - Charter member and the first president of Delta Kappa Epsilon.
1932 - LL.B., articled with the Steer Jackson & Gaunt, (now Fraser Milner Casgrain LLP)
1940 - He married Marjorie Hope Montgomery, Judge Bowker now of course.
1942 - Enlisted as a private in the Canadian Army and left as Captain in 1945.
1945 - Began teaching as only full-time legal staff member.
1948 - Son Blair was born 1948; became Dean of Law at the age of 38.
1950 - Daughter Lorna was born
1951 - Received his Q.C. (K.C. actually)
1952 - Son Keith was born
1953 - LL.M. from the University of Minnesota, his thesis on Civil Liberties
1972 - Honorary LL.D. from the University of Alberta
1975 - Retired, named Professor Emeritus and Director Emeritus
1976 - Made Honorary Bencher
1977 - Made Honorary Professor at Law, University of Calgary
1979 - Made Honorary Member, Canadian Bar Association
1981 - Attorney General's building named Bowker Building
1985 - Phi Delta Phi, established the Bowker Inn
1989 - Received Presidents Award, the Canadian Bar Association
1989 - Made Honorary Member of both Calgary and Edmonton Bar Associations
1989 - Received the Justice Medal, Canadian Institute for the Administration of Justice
1990 - Appointed Officer of the Order of Canada. Named Honorary Editor of the Alberta Law Review in addition to having two issues dedicated to him, in 1968 when he retired and in 1980 for the 25th anniversary issue.
1992 - One of first honorary members of the Legal Archives Society of Alberta. Named "Builder" of the Faculty of Law
1999 - Died with his loving wife and greatest supporter at his side.

International EXPERIENCE

Interning with the OSCE in Bosnia and Herzegovina

Joanna Harrington

In a series of articles, Professor Joanna Harrington has presented interviews with law students doing international internships with either the UN or a regional organization in various international fields. In this article, Professor Harrington interviews Diana Reynolds about her nine-month YIIP internship with the Organization for Security and Cooperation in Europe (OSCE) in Bosnia and Herzegovina from June 2000 to March 2001. Diana worked with the human rights team in Field Office Drvar. Her deployment organization was CANADEM.

JH: How was the experience with the OSCE in Drvar?

DR: I was fortunate to have an excellent experience working with the OSCE in Bosnia. The Human Rights Officer who supervised me in Drvar allowed me opportunities to gain a wide variety of experience. I met with clients from the local community regarding their human rights concerns. I also participated in meetings with the local housing officials regarding the implementation of the property repossession laws (which allowed refugees and internally displaced persons to claim and repossess their pre-war property). I went on 'field visits' with the housing officials to monitor their investigations of the claims for property repossession. I also went on evictions to monitor the work of the local housing officials in enforcing the property repossession orders, and consequently evicting the temporary occupants. I also attended meetings with representatives of other international agencies working in the same town.

My work involved reviewing the relevant local laws, and seeking clarification from Legal Advisors regarding issues that arose regarding the property laws. Each week, I also drafted the Human Rights Weekly Report for the Field Office, which was reviewed by the Human Rights Officer.

JH: Sounds very interesting. How did this internship come about?

DR: After articling and being admitted to the Law Society of Upper Canada in Ontario, I decided to follow my dream and pursue international work. Applying directly to various international jobs yielded no results. I discovered, through some career research, that there were a number of government-funded internships for international work. I applied to several programs, and was very pleased to be selected for CANADEM's internship program. CANADEM was the only organization offering assignments in Bosnia, and having taken a course on Balkan politics, I had a particular interest in the region.

JH: How were you able to afford a nine-month internship abroad?

DR: Drvar, and Bosnia in general, was very affordable. The rental cost in Drvar (for shared accommodation) was approximately CDN$100 per month. Not every town in Bosnia is however in the same situation. The cost of living in the capital, Sarajevo, is much higher, and interns who lived in Sarajevo accordingly did not have much, if any, funds left over at the end of the internship. The cost of living is nonetheless lower in Bosnia as compared to Canada, given that the country struggles to recover economically from the devastation of war. So goods and services are available at a cheaper rate. For that reason, the internship funds stretch further.

JH: What was the most interesting aspect of the experience?

DR: The most interesting aspect of the internship was learning about the property laws, and carrying out field work to monitor the local housing officials.

JH: What was the least interesting?

DR: I can't say that I had any boring tasks. I was fortunate not to be assigned to strictly administrative work, as I have heard of other situations where this has occurred.

JH: What tips would you recommend for others interested in securing an internship?

DR: I would strongly recommend that students contact internship organizations in advance and ask them for the contact information for former interns. Find out ahead of time what are the prospects to be hired-on with the field organization. Not all field organizations are in a position to offer permanent work to interns. Of course, if you are going just for a one-time experience, this is not so relevant. Nonetheless, I spoke with a former CANADEM intern before I went to Bosnia, and she gave me some very helpful notes about what to expect – as well as tips about the weather to what dress code was in effect for the office.

If you are interested in doing international work, it is most likely that you have already planned to take some international courses during your studies. It is also very useful to have taken courses, or to have gained hands-on experience, in negotiation, mediation, and/or alternative dispute resolution. International work is so dependent on diplomacy and negotiation that these are really useful skills to have.

I'd also recommend reading about the country before you go and try to pick up some words of the local language – this will mean a great deal to the local counterparts you will work with.

In terms of organizations to contact, I highly recommend CANADEM. Not only do they offer internships, the organization maintains a roster of qualified Canadians for international work opportunities. In terms of field organizations, I also highly recommend the OSCE. In my view, the OSCE is the best organization in Bosnia.

JH: The OSCE is a regional organization, whose membership includes Canada. It has missions in Bosnia, Croatia and Serbia (including Kosovo) and a number of different departments, which in Bosnia included: human rights; democratization; education; public administration reform; and (previously) elections. There are also to a lesser extent some international positions within the more administrative departments such as press; administration; operations; and personnel. The human rights department has two sections; one for rule of law; and the other for all other human rights matters. On all fronts, the OSCE seeks to monitor the work of the local authorities and to promote rule of law and sustainable practices. The OSCE takes a very pro-active role in working with the local authorities and local communities, and advocating necessary changes. For further information, see: http://www.osce.org

Further information on CANADEM can be obtained from http://www.canadem.ca

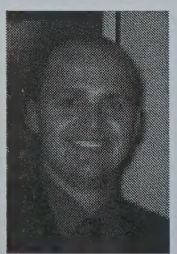
Diana Reynolds is currently completing a Masters of Laws at McGill University. Professor Joanna Harrington teaches constitutional law and international law at the University of Alberta.

Who would you NOMINATE?

Justin Pettigrew (3L)

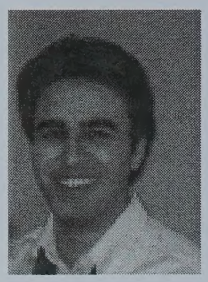
So we may not have a red carpet for our winners, no "gift" bag for our presenters; in fact we don't even have presenters, and definitely no statuette, no acceptance speeches and no international television coverage. But we do have a selection of worthy winners as chosen by you, our devoted Canons' readers. And although the response rate was an astounding 5%, give or take, there was considerable consistency in *your* selections. Just a reminder that I am merely the messenger, so please don't shoot me. So, who did you choose as the most likely to...

The other night I was sitting at home enjoying an import and watching the market prices when the phone rang..."what are you doing"..."What are yooooooouuuuu doing? Quick flip to channel 5"..."Have you been hurt by a so called friend that buys you a Prairie Fire on your birthday, tells you it's a shot of grenadine only to laugh hysterically as it burns your throat? I have. I'm attorney **Chris Luchak**, and I will work hard to get you the money you deserve." Moving through the channels, there was **Tara Thompson** and **Karyn Mundy** reporting live from the Supreme Court of Canada for celebrity justice. Chief Justice



Grad 2005 Survey Results

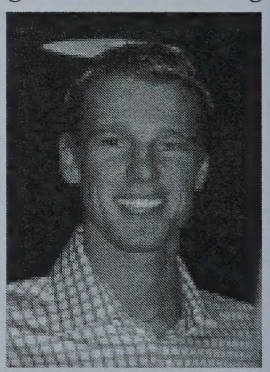
Amy Zarzeczny was discussing a recent decision involving the Taco Bell Dog and the right of dogs to sue and be sued in Canada. The firm of **LeBoeuf & Wispinski**, who represented the dog, sees this as a huge legal victory and vindication for their first year torts exam. However, Prime Minister **Baerach Anderson** and Premier of Alberta, **James West**, question the verdict...but we'll leave that for another day.



In other news, **Susie Do** and **Pino Perone** are being questioned regarding their recent billboard advertisement depicting Nicollette Sheridan of *Desperate Housewives* trying to seduce super model **Stephen Parker** into missing his court date by removing her towel and jumping into his arms (Terrell Owens has nothing on Stephen!). Hollywood actor **Chad Zima** was personally appalled but felt it had "movie potential". **Jennifer Janz**, who appears regularly before the SCC, said she was considering legal action. But Professor **Tom Cantine**, from the University of Alberta Faculty of Law, and Traffic Court Judge **Kyle Kashuba**, were not convinced that legal action was necessary.

You might remember Troy McClure from the smash hit "Slow Down David Copperfield, What's That In Your Sock" and inventor of "Brew-and-Chew, the beer flavored chewing gum". But we remember him more for his in depth look into the fascinating world of Law Firms. Troy comes to use live from the set of his infomercial "Lead Paint: Delicious But Deadly", with the latest developments. From the class of 2005, **Lisa Monteith** and **Tim Bayly** were the first to make partners in their respective firms. **Keith Inman**, a partner in his firm, has been seen out on the town with a young lady who is reportedly an articling student at the firm, but we continue to follow this developing story. **Brett Plaizier** was recently held in contempt for supposedly wearing a pair of Speedo's into court and refusing to put on pants. He said he was simply "expressing himself" through his fashion. And

finally, **Guy Davis** and **Mark Hawkins**, both who reportedly married for money and looks, have a new commercial out that is gathering interest. It depicts the pair frolicking gleefully through the warm waters of the water park at West Edmonton Mall while soliciting clients who have been burned by their irons. Reportedly, the tragedy occurred when the claimants attempted to iron their clothes while wearing them. They claim the manufacturer failed to put a warning on the box informing users to first remove their clothes then iron. Both Hawkins and Davis feel a special connection to the case as they were among the reported victims.



So there you have it, the latest gossip, news and information regarding the class of 2005. I have tried to present a humorous look into what the future may hold. But irrespective of the selected "winners", I know we will all leave here and accomplish amazing feats in our chosen paths, with the common denominator being a law degree from the University of Alberta. As we prepare to leave this stage and move onto the next, I wish all of you the greatest success and happiness in the coming years and someday, I sincerely hope that our paths may cross again. Until next time...

Canons FODDER

Walter Krawec (3L)

So, another Students' Union election came and went. Did your candidate win? Do you care?

If you're like the majority of University of Alberta students, the answer to that last question is an unequivocal no. According to the SU's numbers, a grand total of 6,152 students out of over 25,000 undergraduates voted on the Health Plan question. All of the other races received fewer votes, including the one that saw Graham Lettner become the new SU president. (Incidentally, the Health Plan was voted down.)

Even though I've never had anything to do with student government since my term as grade five class president expired, I've voted faithfully, year after year, as if "Thou Shalt Vote in the SU Election" was the 11th Commandment. However, I'm starting to think that the non-voters might have had it right all along.

Now, this isn't one of those "Student government is a waste of time, money and Gateway space" rants. But hearing the usual election promises trotted out annually, and seeing the paucity of tangible results causes my cynicism to spike a little.

After many years of studiously ignoring post-secondary education, Ralph Klein decided to throw PSE a bone this year - and good on him. However, I haven't heard of a run on thank-you cards and bouquets for outgoing SU President Jordan Blatz.

There's no question that the SU plays an important role in lobbying government and, as it seems to have realized only in the last year or so, getting the public on your side can be helpful too. In exchange for your $123.10, the SU provides useful services like SUBtitles, the Campus Food Bank, and it runs buildings that are the centre of student life on campus.

On the other hand, it seems as though half of the eateries on campus are SU-run. No fewer than three bars and lounges are part of the SU's business portfolio. It sticks its nose into areas it really doesn't belong in. Like a B-movie zombie, the proposed Health Plan keeps rising from the dead despite being voted down on each occasion.

Right now, the SU is all over the map, and SU election candidates are making election promises that are either too vague or grandiose to be kept. The incoming executive can fix the problem by sticking to what the SU does best.

The executive should resist the urge to continue staging costly but futile rallies or shilling beer to the student masses. It should focus on services that nobody else can or will provide. The SU should keep working to get the public to buy into its message. The mildly inane "I (Heart) Alberta Education" campaign was a step in the right direction, since it spread the word beyond the confines of campus, and helped raise public awareness.

We need SU apparatchiks to stop promising the moon at election time and worry instead about the unglamourous, if not downright boring brass tacks of student government. Perhaps then the volatile mix of student cynicism and apathy toward the SU might give way to a realization that it is a body that has a real purpose. Maybe this will be the year the SU really learns that less can be more.

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Public Health Law...

...Continued from page 3

promotes health and prevents injury and disease.

Dr. Gostin turned to his legal toolbox and proposed several ways in which the law can be used to develop a public health infrastructure. First, he advocated the use of government's power to tax as a means of accumulating resources. He also envisioned the government regulating several environments: the informational environment (providing health information, restricting commercial expression, setting labeling regulations); the "built" environment (workplace safety and promoting active lifestyles); and the socioeconomic environment (advancing redistributive policies). Indirect regulation could also occur through tort law in addressing harms caused by environmental hazards, defective products, misleading information, and unsafe vaccines and pharmaceuticals.

Although Professor Gostin acknowledged that the public health infrastructure is unlikely to gain momentum in the political climate today, he clutched onto his vision which values life, not just his own, but all mankind, over and above all else. Amid values of free will, individualism, liberty, privacy, and free enterprise, he pointed to the need to recapture the common good, where citizens not only defend their own freedom but are also obligated to protect their community.

After prompting his audience to contemplate what kind of community they wanted to live in, he ended his lecture with a quote from the British philosopher John Ruskin that reiterated his vision:

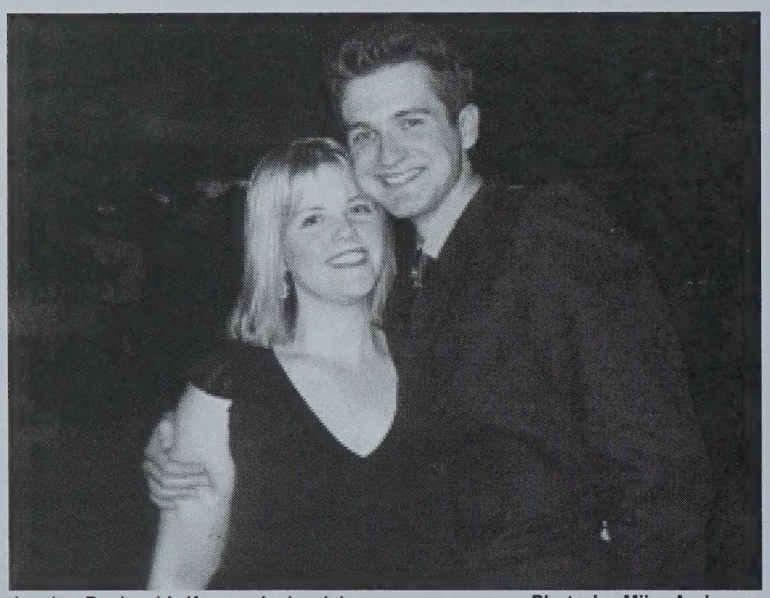
"There is no wealth but life. Life, including all its powers of love, of joy, and of admiration. That country is richest which nourishes the greatest number of noble and happy human beings; that man is richest who, having perfected the functions of his own life to the utmost, has also the widest helpful influence, both personal, and by means of his possessions, over the lives of others."

Seldom does one encounter a legal scholar like Professor Gostin, whose treads run deep in the philosophy of life and law.

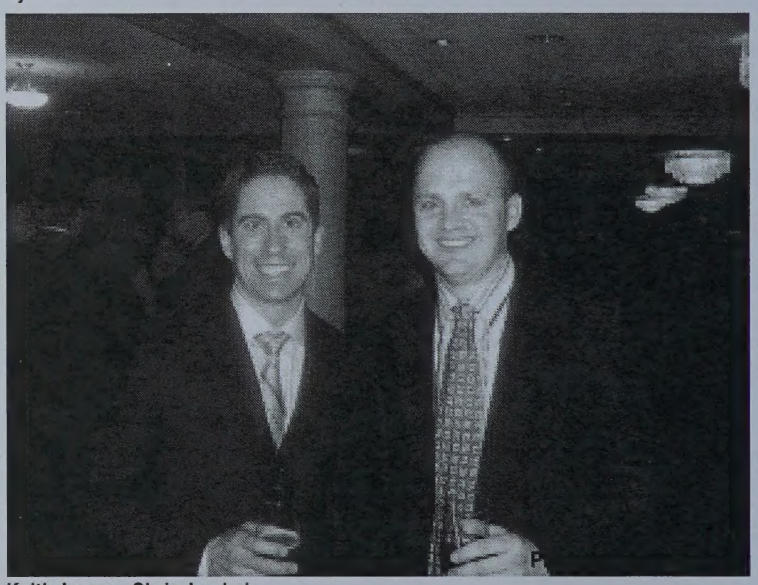
Grad

Jeff Wispinski, Tara Thompson, David LeBoeuf — Photo by Tara Thompson

Greg Pratch, Mike Anderson, Jodie Currie, Sean Myskiw — Photo by Mike Anderson



Jessica Buckwold, Kacper Jaskowiak — Photo by Mike Anderson



Keith Inman, Chris Luchak

Naomi Schmold, Jillian Vincent, Kristen Lewicki, Gillian Findlay, Karyn Mundy, Melissa Zerebeski, Richelle Freiheit — Photo by Karyn Mundy

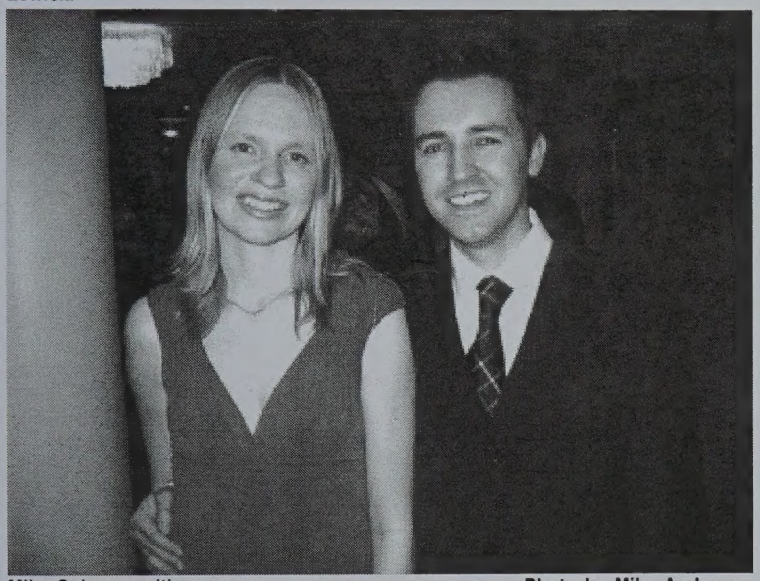
Amy Heil, Mark Hawkins — Photo by Mark Hawkins

2005

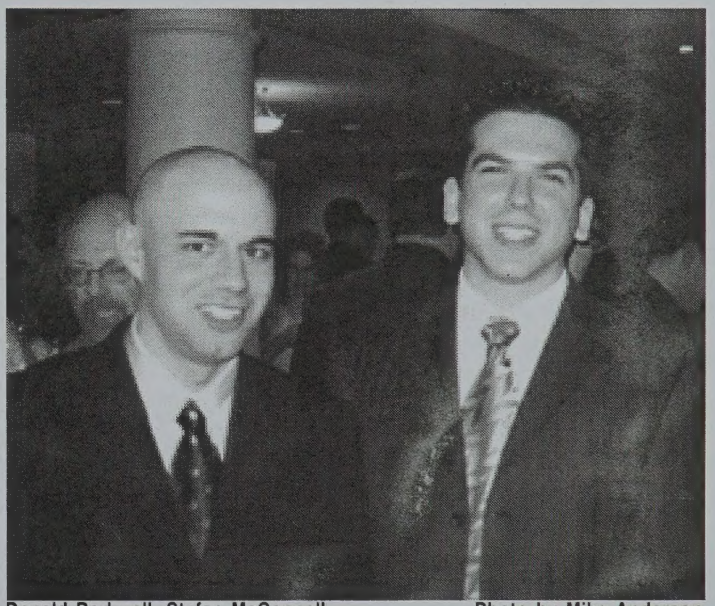
Saturday, March 12
Crowne Plaza

Canadian Idol Kalan Porter, Gillian Findlay, Kristen Lewicki — Photo by Karyn Mundy

Tereza Fonda, Jen Roper, Amy Zarzeczny, Dani Grover, Amy Heil, Lisa Monteith, Sarah Pybus, Rebecca Young, Tara Thompson — Photo by Tara Thompson



Mike Solowan with spouse — Photo by Mike Anderson



Donald Barkwell, Stefan McConnell — Photo by Mike Anderson

Gord Ragan with spouse — Photo by Mike Anderson

Professor Hopp, Mike Anderson — Photo by Mike Anderson

In the SPOTLIGHT

On the Edges of Democracy:

Clint Martin (2L) & Justyna Herman (2L)

This past autumn, Ukraine had its Presidential elections. The first round took place on October 31st, and narrowed the field of candidates to two - Viktor Yanukovich and Viktor Yushchenko. The second round took place on November 21st. The announcement of Yanukovich (the former Prime Minister of Ukraine) as the new president was a surprise to the country because exit polls placed his opponent Yushchenko as the clear winner. Thousands of protestors headed to the streets and collected in Independence Square (called the Maidan) in the centre of Kyiv. From that spark, the Orange Revolution grew. Orange is the traditional colour of rejection in Ukrainian culture. Yushchenko's party, called "Our Ukraine" or "Nasha Ukrayina", used the colour in their campaign to signify the rejection of the old system corruption and nominal Potemkin-village democracy that had existed in Ukraine since its post-Soviet independence in 1991.

The citizens of Ukraine embraced the Orange movement of rejection. Reports began coming out that there had been incidents of fraud in the November 21st Second Round; these incidents were both large and small scale and foreign governments grew concerned that the presence of large-scale fraudulent election activity left the final election results untrustworthy. Ukrainians themselves, of all political inclinations, felt that they were once again being treated like non-citizens; they felt that their votes didn't

matter, as political corruption left the people entirely ignored, even with free elections. Even though they were an independent country, they were still not free from the vices of their political system. So people continued to collect at the Maidan. Political figures, including Yushchenko, spoke to the masses encouraging the Orange (or also 'Chestnut') Revolution to continue in order to bring about the changes the people desired and deserved.

The people did stay to protest at the Maidan. From Nov. 21, 2004 to January 24th the "Tent City" of the Revolution became the heart of the Revolution: the focal point of a nation determined to take hold of true and effective democracy. People of all generations lived in the Tent City, which stretched far down the boulevard leading to the Maidan.

Around December 6th, the Supreme Court of Ukraine threw out the results of the Second Round and a Repeat Second Round was set for Sunday, December 26th, 2005. Canada had sent observers to Ukraine polling stations for the Oct. 31st and Nov 21st elections, but the government of Canada soon realized that a stronger Canadian presence during the Repeat Second Round would be necessary. It quickly

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organized the Canadian Mission of about 500 Canadian observers, which was deployed to observe the December 26th elections and to report their findings back to the government of Canada. Clint Martin (2L), a student at the Faculty of Law, took part in this Canadian Mission under the aegis of the Minister of International Cooperation and the Canada Corps. More information about the Orange Revolution can be found at http://www.orangeukraine.squarespace.com/. Be sure to check out the smashing "Chestnut Revolution Theme Song - Razom Nas Bahato" - surely one of the coolest Revolution songs written.

****

What did you actually do in Ukraine?

Before Ukraine, we had two full days of training sessions and meetings in Ottawa. There we received our foreign observer cards issued by the Ukrainian government. People were saying that on E-Bay those little blue cards were selling for hundreds of dollars; they were the hottest ticket around!

Upon arrival in Kyiv the training continued. In Kyiv we learned how to fill out the different forms we would be using during our tours of polling stations. We did have some free time to sight-see, meet people and there were some receptions as well.

We were briefed on the elections laws of Ukraine, the Supreme Court decisions of early December, the newer 'let's reduce the fraud' laws and then the 'emergency' 11th hour Supreme Court decision that threw out some of the recent changes as they violated their Constitution. Legally speaking, I don't think things can get more exciting than that. (Maybe I should get some sort of credit?)

At which polling stations did you observe?

I think they were about 33,000 polling stations throughout Ukraine's 25 oblasts. The Canadian Corps group of observers were split up to observe in 17 different oblasts. I was in a group of about 25 other Canadians sent to the most eastern oblast – Lugansk. I speak Russian, so I did actually expect to get sent to an eastern area of the country. This region was considered a 'hotbed' area as a fair amount of fraud allegedly 'went down' there during the previous rounds.

On December 25th our group flew to Lugansk (the capital of the oblast). We were matched up with our translators, drivers and polling station addresses. Each pair had its own specific precinct. My partner was Yulia Smith from New Brunswick. We had a fun downtown precinct with its fair share of adventures. I think we visited about 12 different polling stations during the 20 hours we were at work, we even managed to spring some surprise visits on polling stations that were not on our list.

The polling stations were mostly at schools; we also visited a couple hospitals and factories, as well as the homes of invalids who needed mobile voting boxes to visit them (by car and foot) so they could cast their ballots.

Some places had quite the festive atmosphere, with dancing and lip-synch performances.

How were the people on the election day?

We met many people that Boxing Day, and so dozens of election 'boxes'. The committees we met were very co-operative and hospitable. The voters seemed orderly and optimistic that this was going to be the final vote. I met observers from Russia, Azerbaijan, Kyiv and western Ukraine. There were only a few people who had less than positive attitudes about our presence. So it was interesting to chat it up with them, and to inquire about individuals who Yulia and I considered 'suspicious'.

The Ukrainian Presidential Elections

Did you witness the counting process?

Yes! This was really the highlight of the day. Towards 8 pm we located ourselves at the polling station which was rumoured to have the most potential problems. And...well, everything went quite well. We were there with the 16 committee members and about 6 party representatives until 2:30 in the morning. There were some exciting moments, mostly concerning the protocol and controversy of the latest Supreme Court decisions. I had my eyes glued to the piles of ballots and the many hands that sorted them. It was great to be right in the action.

By 10 pm the counting was started and there were jokes and some conversation amidst the continual "Yanukovich...Yanukovich... Yanukovich...Yanukovich" drone in the background. It was rather soporific. In the end, after I made sure I signed whichever documents I had to, and while I was 'looting' the station of its cool election posters, everyone was most friendly and was sighing each other's cards and expressing good wishes for the upcoming holidays of New Year's and Orthodox Christmas.

How did you view the temperament of the country as a whole?

First of all, it was extremely exciting to be in Ukraine. You could feel the energy of the Orange Revolution all over the city of Kyiv, wherever you were. And depending on where you were outside of the capital, I imagine the atmosphere was heightened for similar reasons. I have been in similar post-Soviet cities before, but it felt different in Kyiv. The vast majority of people showed their party colours, and you sensed the countdown of the days and hours to Dec. 26th. Of course, part of the 'feeling' was also impatience – the election had dragged on far too long.

Did you feel that the election results would be accepted by the opposition?

It was difficult to really assess that particular feeling in the general 'atmosphere'. The climate was charged with many different sentiments. I did feel trepidation that there would again be problems with the results, though as an observer it was important to carry a positive attitude. Only a few days after the results were more or less accepted by both candidates, did I really feel at ease enough to take a relaxing deep breath.

Do you think the West had any influence over the people's/election officials actions?

I think the fact that we showed support for the entire country strengthened our already strong relations with Ukraine. I believe that was the most important thing. It showed that the world respected the citizens of Ukraine and were concerned with their struggle for true democratic freedom. I hope that such material support and encouragement at the early stages of transitions (such as elections) helps prevent further problems down the road.

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Yes, the presence of foreign observers (and the domestic observers who traveled all over the country to observe in unfamiliar and distant provinces to do their duty) did seem to secure a higher level of accountability from the election officials. They were very friendly and we had many beneficial discussions with them. Often they asked my partner and me if everything was okay or if we noticed anything that could be improved.

In the end, it is really the people and will of the Ukrainian people that will carry the lasting influence. They showed the world what a peaceful, respectful and effective political revolution is like.

Who were the most significant political contributors (in terms of money) for each of the candidates?

I do not know any details concerning the inclinations or favouritisms of the candidates. In being an impartial observer, I basically closed my ears to the media. Even during the fall months, it seemed apparent to me that western media was having a field day in Ukraine with their 'interpretations' and extremely biased, superficial reports – so I ignored it. We were there for one purpose only: to assist in observing the elections to ensure a fair and free vote for all eligible voters.

Did you get a sense of how Ukrainians feel about Canada and our foreign policies? How did they respond to you personally?

The Ukrainians were so incredibly positive and friendly to us. I think that because of the closeness of our two countries they respected that ours was a mission less about 'foreign policy' and more about support and brotherhood.

How did journalists report the news both on Ukrainian television and in its newspapers? Was the media biased or fairly fair to all candidates?

Again, during the week of the election, I didn't watch too much Ukrainian television. We did pay attention to the percentages coming in on the days after the election. For me, as long as the figures did not seem unlikely or inaccurate, I was satisfied.

I learned during our training in Ottawa that the Ukrainian media had a revolution of their own. News stations and journalists collectively rejected the policies that always dictated what 'truths' they had to report. On one television station, probably after the Nov. 21st election, on sign language journalist was signing the complete opposite of what the news anchor was saying. With great bravery, this lady was signing words to the affect of "do not believe anything about the results reported, or about what you hear. They are wrong; we must do something." That is pretty incredible and inspiring I think.

What were the highlights of the trip?

Well, everyday there were highlights of many sorts. I loved meeting people and chatting, and had great fun with my fellow Canadians as well. (The food and shopping was great). I was very glad to go to Lugansk. Though it is definitely not the most appealing of cities, it reminded me of the Russian city I lived during 2001-2002. Kyiv however, is a very beautiful city. It was great to fall into the rhythm of it and explore. My grandparents came to Canada from the Kyiv region so it really felt special to me there.

I spent my last day in Kyiv visiting the Monastery of the Caves (the Kyiv-Perchersk Lavra). This immense Orthodox monastery is the true heart of the entire country and is located on the high Dniepr river banks in central Kyiv.

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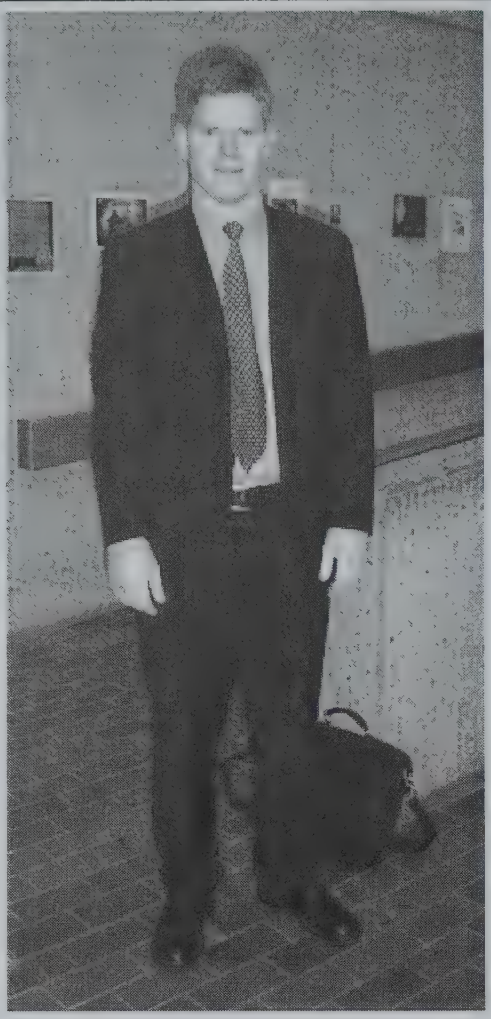

Photo by Marnie Yohemas

Law Guy: Mark Richard Hamilton

Hometown: Vancouver, BC

Sign: Aquarius

Undergrad Studies: History/Political Science

If you were stranded on an island which CD would you want with you? Steve Earle: *Transcendental Blues*

What's the one book you would take with you on a flight around the world? *Les Miserables* by Victor Hugo

What's the one TV show you wouldn't even miss during final exams? *The Suze Orman Show*

What's the one movie you would pay twice to see, even at the expensive theatre? *The Royal Tenenbaums*

The place you'll most likely travel to when finished school? Leduc or perhaps Tibet

If you could chill anywhere, would you pick the beach or the mountains? Mountains — my pasty white complexion is allergic to sunlight.

Favorite thing to do when *not* studying? Play guitar and annoy Marnie Yohemas who lives below me.

If money was no object what would be the first thing you would buy? I would buy Scholars' and only admit law students, except Keith Inman and Ryan Martin - they are sketchy.

Pub or Martini Bar? Pub for sure - I don't know how to drink martinis and the glasses do not easily suction to the face.

Law Girl: Jessica Ivey Lawson, The First or J Funky

Hometown: The Good City, anybody for some C-Dot.

Sign: That depends… What are you compatible with? HEEEYYYYYYYY!!!

If you were stranded on an island which CD would you want with you? Stampede Country All-Stars Mix '95.

The place you'll most likely travel to when finished school? To the SHOW to see my brotha.

If you could chill anywhere, would you pick the beach or the mountains? If by chill you mean soak up the blazing rays of the sun on a toasty, sandy, smooth beach while sipping chilled margaritas, then ya, Beach.

Favorite thing to do when NOT studying? Hosting ad hoc dance parties. Basically shaking it. Hard. Seriously.

Pub or Martini Bar? Where does the Keg fit?!?! Regulars say what? WHAT!

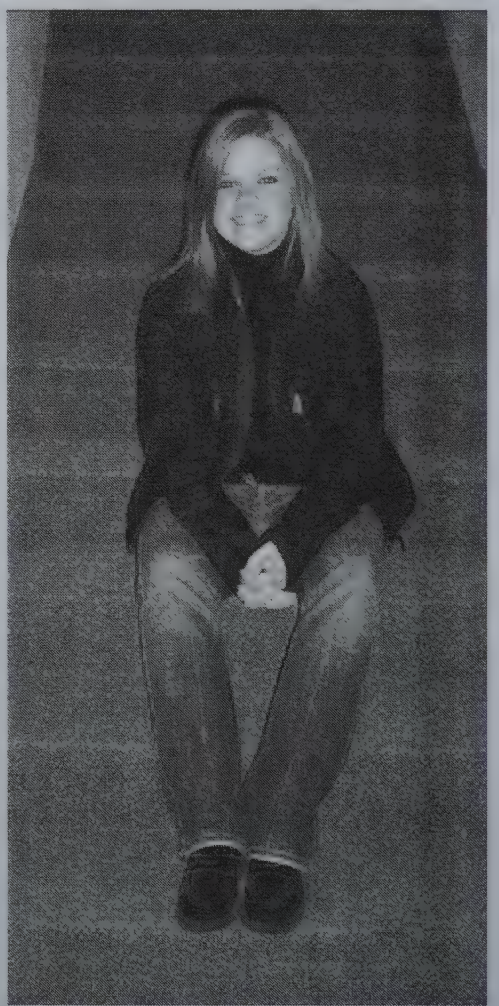

Photo by Marnie Yohemas

Law Girl/Law Guy by Marnie Yohemas (2L)

LSA UPDATE

That Time of Year Already

VP SOCIAL

Marnie Yohemas (2L)

It is unbelievable to me to think that the end of March is already upon us. Elections have come and gone and this will be the last article I write as VP Social 2L. I would just like to say thank you to everyone who came out and supported all the LSA events throughout the year! Good times, good times… that's really all that needs to be said about that!

But, just when you think we're finished with events for the year, there are a few great events left. On March 29, 2005 from 5:30 – 8:30 pm the LSA along with volunteers from the school will be heading to **The Mustard Seed** to provide dinner to the less fortunate in the city. Sign-up sheets are posted on the bulletin board and we need your help to make this very worthwhile and rewarding event a success! You really don't want to see Baerach having to cook all by himself, now do you?

The much awaited **Jeopardy Tournament** is finally here. Teams will compete in the Gavel at noon March 29 – March 31 from 12-2. Final showdown will take place at lunch on April 1. Space is limited so make sure to sign up your team quickly or, alternatively, come out and watch your favourite team put their knowledge to the test! It should be loads of fun.

Law Only Study Space – as always this is a major issue every year. The LSA is working on securing *law only* study space both in the Law Library and in the classrooms in the Law Building. Look for announcements regarding law only study space on the bulletin board.

The **Year End Party** will take place on Saturday, April 30. This annual event is your time to release all your built up exam stress and say good bye to our beloved 3rd Years! Just to show how much we love them the LSA will of course, as is tradition, play host to the 3rd Years who attend. Since Nor'Wester's Rugby Club land has been expropriated by the city we are currently looking for a new location to host the party. Look for more details to come shortly on the bulletin board and via posters. Hope to see many of you there!

On behalf of everyone on the LSA I would like to thank our members and all the students in the Faculty of Law for another great year. Good luck on all your exams, and to the 3rd Years leaving us - you will be missed!

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Ukrainian Elections

...Continued from page 11

It was founded in 1051 and walking through the caves, holding candles with other pilgrims and visitors was a wonderful experience. Throughout the twisting caves you come upon small chapels and the coffins and relics of dozens and dozens of Ukrainian monastic saints (I lost track of how many wooden and glass coffins there were to venerate).

The Tent City was definitely the highlight of the Orange Revolution. The energy there was unbelievable. Every evening I would go to the Maidan to walk around, meet people and just soak in the folk music, fireworks, chanting, outdoor rock concerts, political bulletins and hospitality. One evening, December 24th I think, I was invited into a tent to visit, drink tea and listened to the many stories of the people within. They came from all over Ukraine and I felt extremely honoured to have had the opportunity to witness and learn from their inspirational struggle for their own fair and free democratic elections.

Do you think we will ever find out who poisoned Yushchenko?

I do not know. I have not heard anything about it since the beginning of December. I think that Yushchenko wanted to down play the incident as much as possible, to not have it colour the final weeks of the campaign very much. One can hope that the criminals involved are discovered and charged.

General MALFEASANCE

Year in Review

Matt Vernon (2L) and Cam Bowman (2L)

Photo by Justyna Herman

Matt: Well, I think it's safe to say that the school year is steadily coming to an end; and General Malfeasance thinks it wouldn't be premature to engage in a little reminiscing. After all, barring the faculty having professor Yahya write *every* class's exam, it's fair to say that we'll all be moving onto, well, a *different* year than this one.

Cam: Yep, it's been, well, a long year. In fact, now that I think about it, it was just as long as last year, which was also pretty long. It seems like just yesterday I was approached by the editor of some long-forgotten newspaper called the Canons, and was asked to do a little column. Needless to say, I did so, and have enjoyed every minute of it, even when that petition was submitted to get me to stop writing.

Matt: Yeah, that might have worked better if I hadn't been the only signatory. At any rate, it *has* been quite the year. We've had a number of illustrious speakers grace these halls, not to mention Law Show, Grad 2005, more than a few parties, and I even think I saw someone studying the other day. While we as aspiring lawyers are of course just doing all of this to pad our resumes, it's still been fun.

Cam: It sure has. I remember **First Friday Back** as if it were only several months ago. There was good music, cheap beer, and lots of drunken students – new and old. I remember that I heard a couple of brand new 1L's contemplating a change in faculty because they couldn't keep up with all the drinking... Guess they should have done their research before signing up to U of A. I remember too a couple of guys showing up with cowboy hats to the party; I think by the end of the night everyone had at least one turn wearing them. I also remember a somewhat less than discrete 'incident' on the school bus on the ride back. Matt, can you refresh my memory on that?

Matt: No. I've long since forgotten all the rules for 'present memory refreshed', along with the last half of First Friday Back. What I *do* remember, however, is **Law's a Beach**; an always fantastic day of beer, bus rides, and BBQ. Once again *our* little softball team - the *Crown Royal Prerogative* – was soundly defeated by what I'm pretty sure were drunken ringers from the faculty of 'softballology'. They'll all be gone next year, though, so I have high hopes for our little cadre – after all, we *did* make the cover of the Canons that week, for reasons totally unrelated to my position as editor.

Cam: It wasn't long after that that the law school came out in force for the **Halloween** party, highlighted in particular by a celebrity appearance by the entire cast of *Kill Bill*. I'm not sure everyone there was a law student, though; there were two pretty good looking 'Hooters' girls I sadly haven't seen since. I scored one of their phone numbers, but some *guy* answered when I called and was all freaked out when I asked for 'Markeesha'. Maybe it was her boyfriend. As for everyone else: great costumes as usual, including the very provocative 'fire-girls' – I wouldn't be surprised if someone went next year as a fire pole.

Matt: Classy. I have to say as well that as one of the spectators for the annual **Bearristers Rugby** match, the boys put on quite a show, soundly trouncing the Alumni for the first time in team history. Your heart has to go out to Hugh Willis, though – last year's LSA president – for his now 0 and 4 career; I think he'd been looking forward to a win. There was also an innovative approach to **FABS** this year, with our first ever hypnotist. I don't want to spoil the magic for anyone, but I think the only ones actually hypnotised were the LSA – "you *will* pay me $500!"

Cam: As the days passed, we moved ever closer to **December exams**. That's the time of year everyone first realizes that no matter how much beer you drink, it won't teach you anything about Tort law. It's a pretty important juncture: you either buckle down and open up those casebooks so you can write something intelligent on the exam, or you give up on the spot and try to trade them in for credit at Scholars, which is, incidentally, how they decorate their walls. Eventually, though, you make it through and move onto the big party at the end of it all, purposefully wiping out all the brain cells that actually learned anything.

Matt: Right. Only to recover for an entire day and a half before getting to work on those moot factums, should that be your fate over the Christmas break. There's nothing quite like finishing five exams then sitting down with hundreds of pages worth of Supreme Court of Canada judgements. It doesn't help that your entire family will of course be in the other room

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Year in Review

...*Continued from page 14*

basking in Christmas spirit. Just a heads-up for anyone that wants to do a moot! Coming back to school in January is a *special* feeling; everyone else is so refreshed and chipper after the break that you just want to *slap* them. In the end, though, you'll finally finish your factum, practice until the words lose all meaning, polish your advocacy skills to a blinding glare - then get screwed over in Toronto. It's a rewarding experience!

Cam: Right. Settle down over there. Anyway, after an especially long and restful break for those of us with common sense, we returned ready for **Law Show**. After months of practise, the "computer glitch scene" and the "partner drop" went off without a hitch. A makeshift Professor Yahya also made an inspired appearance, and I don't think any of us will ever forget 'J Stribby', who fell into the role so comfortably that he's leaving us for Toronto in order to further his freestyle rap career. All in all, a solid performance by a talented and dedicated student body.

Matt: And let's not forget that we're an *employable* student body too: **articling week** is coming up right after exams are over – so get those resumes polished and updated. Students from the U of A apparently don't have to worry about applying to a certain firm here in Edmonton that recently cancelled their beer and pizza night on account of 'rampant student apathy.' Only a meagre *fourteen* students signed up for the event, which was woefully inadequate; the firm was actually looking to hire articling students *en masse* this year, and felt it would be pointless to deal with such a slight 'drop in the bucket'. The Calgary event went significantly better, though, with the firm hiring the entire student body, two professors, and a few management students that were 'just passing by'.

Disclaimer: That last joke was written solely by Matt, and does not represent the views of the paper, the network, Matt himself, or anyone else at the U of A who does not yet have a job.

Cam: Moving on, there was also the annual **Carbolic Smoke Ball** earlier in the year which featured a lot of students looking their best and having a good time. Each class put forth their best cinematographic skills, and I've got to say that the first year video stood out above the rest. Of course, that's easy to do when you don't have any work other than complaining about your upcoming six minute moot performances and fail safe midterms. Of course, by that logic, third year students should be able to submit Academy Award winning performances, considering that they all seem to be taking nothing but classes like "Techniques in Client Resolution" and "Professional Dispute Responsibilities." I'd be surprised if they even remember what a statute is.

Matt: That pretty much brings us up to the present, with the school caught in the throes of another **LSA election** as we write this. There's nothing like bad Photoshopping, clip art and amusing promises of "integrity" from people running for committees that meet once a year and don't involve any actual work. Personally, I'd like to see a little more truth in advertising from the candidates, like campaigns promising "regular office hours – provided there's nothing else I'd *rather* be doing" and "political infighting – now with more stubbornness." But hey, you know what they say: those who can't do... write sports columns.

Cam: Aah, nothing like a good crack at the sports columnist. Hey, wait a second....Anyway, like you said, we have pretty much covered the whole year, or at least everything that comes to mind at the moment. I'm sure that there were some other memorable events that we have not covered, but judging by the kind of coverage you'd be getting, would you really *want* to be mentioned? Looking forward to next year, I think that there are some lessons learned this year that might help us out in the future, such as not allowing rugby practises in the hallways after FABS and hopefully getting around to installing that anti-snail security system. Matt, got any last words?

Matt: Just a big thank you to everyone in the law school that puts in all the work they do: U of A's reputation as a great place to study law is well deserved, and you make it happen. We only kid because we love. Stay classy, U of A; you're *electric*.

Cam: And I'm Cam Bowman. Go **** yourself, University of Alberta!

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Canons of Construction
Printed by Campus Copy Centre
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